

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA

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CRIMINAL NO. 98-273

v.

ANDRES MARTINEZ-HERNANDEZ

ORDER

AND NOW, this 6th day of December, 2012, upon consideration of the Petition for Relief from Judgment Under Fed. R. Civ. P. 60(b)(6) and the Timeliness of Defendant's *Pro Se* Motion to Correct Sentence (Document No. 81) and the government's response, it is **ORDERED** that the motion is **DENIED**.

IT IS FURTHER ORDERED that the petitioner having failed to make a "substantial showing of the denial of a constitutional right," there is no probable cause to issue a certificate of appealability.

/s/Timothy J. Savage
TIMOTHY J. SAVAGE, J.